IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.14739 of 2007

MONDAY, THE SIXTEENTH DAY OF JULY TWO THOUSAND AND SEVEN

Between:

Tandyala Someswara Rao, S/o. Simmayya,
Aged about 40 years, Occ: Agriculture,
R/o. Boddapadu village, Janumuru Mandal,
Srikakulam District, and others.

… Petitioners

And

The District Collector, Srikakulam,
Srikakulam Districst, and others.

… Respondents

Order:

This writ petition has been filed seeking Mandamus to declare the notification dated 08-06-2007, issued by the first respondent in Proceedings No.1572/2007 SWLA, under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') as illegal and arbitrary.

Heard learned counsel for the petitioner and learned

Government Pleader for Land Acquisition appearing for the respondents.

Petitioners claim to be the owners and possessors of land admeasuring Ac.0.27 cents, Ac.0.29 cents, Ac.0.14 cents, Ac.0.11 cents, Ac.0.17 cents, Ac.0.12 cents Ac.0.19 cents, Ac.0.9 cents, Ac.0.11 cents, Ac.0.11 cents and Ac.0.48 cents in Survey Nos.55/2, 55/3, 55/3, 55/4, 55/7, 55/8, 55/9, 55/10, 55/11, 55/11 and 56/10 respectively, situated at Boddupadu village, Janumuru Mandal, Srikakulam District. The impugned notification has been issued by the first respondent notifying the aforesaid lands, along with some other lands, for the purpose of providing house sites to weaker sections.

The case of the petitioners is that the aforesaid lands, which are double-crop wet lands, are situated in a low-lying area, are not suitable for providing house sites to weaker sections. The grievance of the petitioners is that they are small farmers, depending on the income, which they drive from cultivating the said lands and they do not own any other land.

On a perusal of the impugned notification, it appears that urgency clause as contemplated under Section 17(4) of the Act is invoked, by dispensing with enquiry under Section 5-A of the Act.

However, learned Government Pleader appearing for the respondents, on instructions, submits that respondents are now prepared to conduct enquiry under Section 5-A of the Act.

Though the impugned notification issued under Section 4(1) of the Act is questioned, however, having regard to the grounds raised in the writ petition and in view of the statement of the learned Government Pleader that respondents are willing to conduct enquiry under Section

5-A of the Act, I am of the opinion that petitioners can very well raise

their objections in the enquiry to ascertain whether the lands in question are suitable for providing house sites to weaker sections or not.

Having regard to the facts and circumstances of the case,

I dispose of the writ petition setting aside the impugned notification to the extent of dispensing with the enquiry under Section 5-A of the Act and directing the respondents to conduct enquiry as contemplated under Section 5-A of the Act. It is clarified that this court has not expressed any opinion on the merits of the objections raised by the petitioners and it is open for the respondents to conduct an independent enquiry with regard to the said objections. Till the enquiry under Section 5-A of the Act is completed, petitioners shall not be dispossessed from their respective lands referred above and respondents shall take further steps subject to the outcome of the enquiry under Section 5-A of the Act. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

July 16, 2007

Note: **Furnish copy in three days**

B.O.

MRR